

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)

Revision of the Commission's Rules)

To Ensure Compatibility with)

Enhanced 911 Emergency Calling Systems)

CC Docket No. 94-102

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MOTION TO ACCEPT LATE-FILED COMMENTS

RAM Mobile Data USA Limited Partnership ("RMD"), respectfully requests that its attached comments in the above-captioned matter be made a part of the record even though they are being submitted one business-day late. The delay was caused by an administrative oversight by counsel.

RMD's comments focus on the appropriate scope of the Commission's "covered SMR" definition, which is being used in several proceedings to define the reach of Commission rules. Because of the importance of this issue and the fact that a brief delay in submitting these comments will not prejudice the interests of other parties, RMD asks that the Commission grant this motion for late-filing of its comments.

Respectfully submitted,
RAM MOBILE DATA USA L.P.



By: /s/ W. Kenneth Ferree
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October 9, 1996

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**CONSOLIDATED COMMENTS OF
RAM MOBILE DATA USA LIMITED PARTNERSHIP**

RAM Mobile Data USA Limited Partnership ("RMD"), hereby submits this consolidated response to the petitions for reconsideration filed in the above-referenced proceeding.¹

RMD operates SMR systems that provide "interconnected"² mobile data services that do not offer real-time, two-way switched voice service. As such, its systems currently are excluded from the Commission's definition of "covered SMR" systems for purposes of this and other proceedings.³ This exclusion is entirely reasonable. RMD's systems are unlike traditional cellular and broadband PCS voice systems, which often are used "primarily for security."⁴ Users of RMD's data-only systems do not "expect access to 911 and E911" services.⁵ Nonetheless, several parties have petitioned the Commission to reconsider its "covered SMR" definition and to amend it in ways that might, inadvertently or not, bring RMD's mobile data systems within the scope of the definition. For the reasons set forth below, the Commission should reject these suggestions.

¹ RMD herein responds to petitions for reconsideration filed in this proceeding by the American Mobile Telecommunications Association, Inc. ("AMTA"); the Personal Communications Industry Association ("PCIA"); and Nextel Communications, Inc. (Nextel).

² RMD's systems are deemed to be interconnected, however, only because of the Commission's expansive definition of "interconnected service," which includes systems that allow customers to interconnect to the public switched network. See In re Implementation of Sections 3(n) and 332 of the Communications Act, 9 FCC Rcd 1411, 1434-35 (1994).

³ The Commission also is considering the application of its rules regarding number portability (CC Docket No. 95-116), CMRS roaming and resale (CC Docket No. 94-54), and RF emissions hazards (ET Docket No. 93-62) with respect to "covered SMR" services. It is essential, therefore, that the Commission not consider RMD's comments herein in isolation, but rather consider the impact of its "covered SMR" definition to which these comments speak in each of these contexts.

⁴ Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking (rel. July 26, 1996) ¶ 80 ("R&O").

⁵ See id.

DISCUSSION

In the R&O, the Commission determined that it will apply its E911 requirements to cellular, broadband PCS, and "covered SMR" services.⁶ The R&O defines "covered SMR" systems to include 800 MHz and 900 MHz SMR licensees that hold geographic area licenses and incumbent wide area SMR licensees that offer real-time, two-way switched voice service that is interconnected with the public switched network.⁷ This definition, the Commission explained, was intended to exclude SMR licensees "offering mainly dispatch services to specialized customers in a more localized, non-cellular system configuration, as well as licensees offering only data, one-way, or stored voice services on an interconnected basis."⁸ These exclusions are based on the recognition that customers do not use such systems as their primary voice communications technologies and that they, therefore, do not expect these systems to provide 911 or E911 services.⁹

Nonetheless, some of the petitions filed in this proceeding seek amendments to the "covered SMR" definition which, apparently inadvertently, risk bringing mobile data SMR systems within the ambit of the "covered SMR" definition. AMTA, for example, suggests that only those SMR systems that have an "in-network switching facility" should be deemed to be "covered SMRs."¹⁰ RMD disagrees.

The appropriate inquiry, as the Commission recognizes in the R&O, is whether a reasonable cost-benefit analysis, based on likely system uses and customer expectations, supports imposition of E911 requirements. Although the technical configuration of a system may be suggestive of the kind of service that the system provides, it is one step removed from the essential inquiry. As a result, ambiguities in the definition of "in-network switching" or a "mobile telephone switching facility" will lead to inadvertent inclusions and exclusions from coverage. For example, the definition offered by AMTA could be construed to include simple "interconnect patches" used by many analog SMRs to provide occasional interconnected service to their dispatch customers, but which do not support more sophisticated mobile telephone features such as on-call hand-off and seamless roaming.

⁶ Id. ¶¶ 80-81.

⁷ Id. ¶ 81.

⁸ Id.

⁹ Id. ¶ 80.

¹⁰ AMTA Petition for Reconsideration at 3-8; see also Nextel Petition at 7-8 (suggesting that the "covered SMR" definition include only systems "using a mobile telephone switching facility").

RMD also opposes AMTA's proposed rule to the extent that it eliminates the "real-time" voice service limitation on coverage. No explanation is offered by AMTA for the suggested rule change, which would inappropriately bring within the rule's scope systems that use incidental, non-real-time voice messaging. If adopted, AMTA's revised definition would require systems providing only store-and-forward messaging to provide E911 capability. Such a requirement would defy common sense — callers seeking emergency assistance will not use a system on which they would have to, in essence, leave a message.

PCIA, on the other hand, urges the Commission to abandon its functional approach to the "covered SMR" definition and, instead, to "employ a simple mobile count definition to determine whether an SMR operator is a 'covered SMR provider.'"¹¹ Although PCIA's suggested alternative definition has the appearance of regulatory simplicity, it advocates the use of an inappropriate criterion to determine coverage. Nothing about the number of subscribers served by a system is relevant to whether the system will be used by its customers for 911 or E911 services, or whether the subscribers of the system will expect access to these services. On the other hand, as noted above, users of data-only SMR systems, whether there are few or many such users, do not expect to use data-only SMR systems for 911 or E911 access, nor are such systems perceived to be a substitute for two-way voice communications technologies. Thus, data-SMR systems warrant exclusion from the "covered SMR" definition regardless of the number of mobile units served.

Nonetheless, RMD recognizes that certain other considerations might favor an exemption from covered status for small SMR systems. Indeed, the Commission frequently provides small system exemptions from its rules because of the hardship that application of the rules would work on small systems. The Commission should only adopt such an exemption in this context, however, recognizing that it addresses different concerns than those driving the basic limitations on the "covered SMR" definition. A small system exemption should not substitute for the general exclusion from coverage of data-only SMR systems, which are not used for real-time, two-way voice communications.

¹¹ PCIA Petition at 21 (PCIA does not identify what that mobile-count should be); see also AMTA Petition at 8-9 (suggesting that the Commission modify the "covered SMR" definition to include only systems serving 20,000 or more subscribers nationwide).

CONCLUSION

For the reasons set forth above, RMD urges the Commission to retain a functional approach to its definition of "covered SMR" services and to continue to exclude from that definition data-only SMR systems. RMD does not object to the addition of a small system exemption to the "covered SMR" definition, so long as that exemption does not modify the basic definition.

Respectfully submitted,

RAM MOBILE DATA USA
LIMITED PARTNERSHIP



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